IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

ANDREW BARRETT, on behalf of himself and others similarly situated, Plaintiff, v. THE ADT CORPORATION (f/k/a ADT Security Services, Inc.) Defendant.	: : : : : : : : : : :	Case No. 2:15-cv-01348 Judge George C. Smith Magistrate Judge Norah McCann King

MOTION FOR LEAVE TO FILE AMENDED CLASS ACTION COMPLAINT

Pursuant to Federal Rule of Civil Procedure 15(a), Plaintiff Andrew Barrett respectfully moves this Court for leave to file an Amended Class Action Complaint against Defendant The ADT Corporation ("ADT"). The proposed Amended Class Action Complaint is attached hereto as Exhibit A.

Pursuant to Civil Rule 15, leave to amend a complaint is to be freely granted when justice so requires. A motion to amend a complaint should be denied only if the amendment is brought in bad faith, for dilatory purposes, results in delay or prejudice to the opposing party, or would be futile. In the present case, Plaintiff has not acted in bad faith or for a dilatory purpose, and is seeking leave to file the Complaint within the time prescribed by this Court's Scheduling Order. *See* Dkt. No. 36 (setting a September 11, 2015 deadline). The Plaintiff is not seeking to amend or change any other deadlines.

The proposed Amended Class Action Complaint is based, in part, on information that was recently provided to Plaintiff's counsel through an Affidavit provided by the third party whose dialing system was utilized to make the calls at issue in this action. As a result, the Amended Class Action Complaint contains additional factual allegations related to the system used to make calls to the Plaintiffs and others in the putative class and asserting that this system constituted an automatic telephone dialing system ("ATDS"). And since the calls to Plaintiff were on his cellular phone, the use of an ATDS here was in violation of 47 U.S.C. § 227(b)(1)(A). Accordingly, Plaintiff has modified the proposed class definition to include all persons nationwide who received calls promoting ADT services from this ATDS system to their cellular phones.

Counsel for the Plaintiff has conferred with counsel for the Defendant, who could not agree to the relief requested until such time that they had an opportunity to fully review and consider the Motion and proposed Amended Class Action Complaint.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2015, the foregoing was filed with the Clerk of the Court using the CM/ECF system, which will automatically provide notice to the following attorney(s) of record by electronic means:

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